

APPLICANT(S): IDAN, Gavriel J.
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REMARKS

The present response is intended to be fully responsive to all points of objection and/or rejection raised by the Examiner and is believed to place the application in condition for allowance. Applicant asserts that the present invention is new, non-obvious and useful. Prompt consideration and allowance of the claims is respectfully requested.

Status of Claims

Claims 1, 2, 4-13, 15-24, and 29-42 are pending in the application and have been rejected.

Claim 29 is amended herein. Applicants assert that this claim amendment adds no new subject matter to the application.

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CLAIM REJECTIONS

35 U.S.C. § 102 Rejections

In the Office Action, the Examiner rejected claims 1, 2, 4-13, 15-24, and 29-42 under 35 U.S.C. § 102(e), as being anticipated by Yokoi et al. (US Patent Application Publication No. 2003/0181788, also JP2002-084387). Applicants respectfully traverse this rejection in view of the remarks that follow.

Yokoi et al. discloses a capsule-type medical device having therein a magnet that is acted upon by external magnetism and having a spiral portion on the outer perimeter, so that rotating force acting upon the magnet is readily converted into a propelling force for propelling the capsule-type medical device. The center of gravity of the device is placed upon the longitudinal center axis of the capsule main unit, thus facilitating smooth progression through the body cavity.

The Examiner stated that magnet 36 of Yokoi et al. functions as a ballast and is located off the longitudinal axis of symmetry 38, so that the device has a center of gravity displaced from the longitudinal axis of symmetry (referring to paragraph [0134]). The Examiner noted that the claims use the open-ended transition term "comprising", such that an applied reference may contain additional elements, and even if other elements within the

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capsule serve to counter balance the capsule, the limitations of the claim would; still be met because the claimed elements are structurally indistinguishable from Yokoi et al.

Applicant points out that Yokoi et al. attempts to longitudinally orient the capsule so that imaging of the lumen may be done from the side of the capsule with a minimum of axial and eccentric rotation that would impede imaging. Thus, the capsule of Yokoi et al. contains an internal magnet with N-S poles, which magnet is oriented about the longitudinal axis of the capsule main body and is controlled by a magnetic guiding device external to the body. The positioning of Yokoi is done by magnetic pull of the external magnetic guiding device.

In fact, Yokoi et al. specifically states at paragraph [0020] that "the center of gravity in the capsule main unit matches the center axis of the capsule main unit in the longitudinal direction". In addition, at paragraphs [0097-98], Yokoi et al. states:

"[0097] With the present embodiment, the capsule-type medical device 1 is configured such that ... the center 36a of the direction of magnetism of the magnet 36 is positioned on the center axis 38 of the capsule main unit 1A, so that the center of gravity G of the capsule main unit 1A is generally on the center axis 38 of the capsule main unit 1A, as shown in FIG. 3A.

"[0098] Also, the built-in components may be arranged so as to match the center of gravity G of the capsule main unit 1A by changing the position of the magnet 36 shown in FIG. 3A such that the center 36a of the direction of magnetism of the magnet 36 is positioned on the center axis 38 of the capsule main unit 1A, as with the capsule-type medical device 1 shown in FIG. 3D."

It is clear from these passages of Yokoi et al. that there is no additional gravitational weighting given to one longitudinal region of the capsule as opposed to another. In fact, care is given to ensure that the direction of magnetism of the magnet is positioned on the center axis of the capsule and that the center of gravity of the capsule main unit is generally on the center axis thereof.

By contrast, the positioning of Applicant's device operates via gravity, and Applicant's device has a ballast that serves to gravitationally direct downward the longitudinal side of the capsule on which the ballast sits. In fact, independent claim 1 specifically requires "a ballast located off the longitudinal axis of symmetry, so that said device has a center of gravity displaced from the longitudinal axis of symmetry toward said window." Similarly, independent claim 13 requires "a ballast located off a longitudinal axis

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of symmetry of the device, wherein said device has a center of gravity displaced from the longitudinal axis of symmetry in the direction of an in vivo area being imaged." Furthermore, amended independent claim 29 requires the step of "orienting an autonomous in-vivo imaging device with a ballast, said ballast being located off a longitudinal axis of symmetry of the device, wherein said device has a center of gravity displaced from the longitudinal axis of symmetry in the direction of an in vivo area to be imaged".

Yokoi et al. does not have "a ballast located off the longitudinal axis of symmetry" and the device of Yokoi et al. does not have "a center of gravity displaced from the longitudinal axis of symmetry toward said window", such that Yokoi et al. does not anticipate independent claims 1, 13 and 29.

The Examiner stated that the claims use "comprising" language, which allows additional capsule elements that serve to counterbalance the capsule. Presumably, the Examiner is referring to one of the North-South poles of the internal magnet of Yokoi et al. It appears as though the Examiner is arguing that one of the North-South poles of the internal magnet of Yokoi et al. could be removed, resulting in an imbalanced capsule wherein the remaining other North-South pole would remain and would serve as the claimed ballast, such that the center of gravity of the capsule would no longer lie on the center axis of the capsule, so as to thereby anticipate the claims.

Applicant contends that it is specious for the Examiner to refer to one or the other of the North-South poles of the internal magnet of Yokoi et al. as an "additional capsule element that serves to counterbalance the capsule", since the Examiner should know very well that the north and south poles of a magnet are not independent elements and cannot be separated. To the contrary, a magnet always has north and south magnetic poles, and if a magnet is broken in an attempt to separate the north and south poles, the result will be two bar magnets, *each* of which has both a north and a south pole. Thus, no matter how much the Examiner would like to change Yokoi et al., Yokoi et al. specifically teach the structure wherein the magnet is oriented such that its center of magnetism and its center of gravity both lie on the center axis of the capsule. This is the structure of the device of Yokoi et al., and the Examiner may not simply disregard one pole of a magnet.

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In any event, even if the Examiner were able to remove one of the North-South poles of the internal magnet of Yokoi et al. in an attempt to separate the north and south poles, the result will be a smaller magnet having north and south poles. This would, admittedly, result in an eccentrically located magnet, i.e., a magnet whose center of gravity is not positioned on the longitudinal axis of the capsule main body. It would also result in a magnet whose center of the direction of magnetism is not positioned on the longitudinal axis of the capsule. Such a structure, however, would result in a structure that is against the purpose of Yokoi et al. and would destroy the functionality of the device of Yokoi et al.

Applicant contends that it is against the purpose of Yokoi et al. and would destroy the functionality of the device of Yokoi et al. if the center of gravity and the center of the direction of magnetism were not positioned on the longitudinal axis of the capsule. This is because, as specifically stated in Yokoi et al. at paragraph [0099], "Configuring the capsule-type medical device 1 thus enables smooth guiding to the target position through the tubular body cavity or lumen without useless motions such as eccentric movement (zigzagging) of the capsule main unit 1A." When stating "Configuring the capsule-type medical device 1 thus," Applicant asserts that Yokoi et al. are clearly referring to the preceding paragraphs [0097-98], wherein this center of magnetism/center of gravity structure is explained.

That this structure allows the capsule to be guided smoothly through the lumen without useless motions such as eccentric movement (zigzagging) is described further at paragraphs [0101]-[0105] and again at paragraphs [0112] and [0119], as well as regarding the second embodiment at paragraph [0156] and the third embodiment at paragraph [0168]. This means that, if the center of the direction of magnetism of the magnet and the center of gravity of the capsule were not generally on the center axis of the capsule, then the goal of smooth guiding to the target position through the tubular body cavity without useless motions such as eccentric movement (zigzagging) of the capsule main would not be accomplished.

Thus, previously presented independent claims 1 and 13 and currently amended independent claim 29 specifically state that the center of gravity is displaced from the longitudinal axis of symmetry in the direction of the area being imaged. Such a structure is not possible according to Yokoi et al. without disregarding an integral portion of the internal

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magnet thereof and, even if physically possible, would result in a structure that operates in a manner specifically contrary to the intended manner of operation of Yokoi et al.

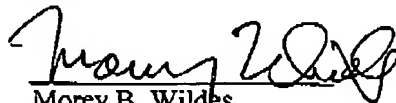
Accordingly, independent claims 1, 13 and 29 are not anticipated by Yokoi et al. Claims 2, 4-12, 15-24 and 30-42, which are dependent upon one of independent claims 1, 13 and 29 and necessarily include the limitations of that claim, are likewise not anticipated by Yokoi et al. Applicants respectfully request reconsideration and withdrawal of the rejections of claims 1, 2, 4-13, 15-24, and 29-42.

In view of the foregoing amendments and remarks, the pending claims are deemed to be allowable. Their favorable reconsideration and allowance is respectfully requested.

Should the Examiner have any question or comment as to the form, content or entry of this Amendment, the Examiner is requested to contact the undersigned at the telephone number below. Similarly, if there are any further issues yet to be resolved to advance the prosecution of this application to issue, the Examiner is requested to telephone the undersigned counsel.

Please charge any fees associated with this paper to deposit account No. 50-3355.

Respectfully submitted,



Morey B. Wildes
Attorney/Agent for Applicant(s)
Registration No. 36,968

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Pearl Cohen Zedek Latzer, LLP
1500 Broadway, 12th Floor
New York, New York 10036
Tel: (646) 878-0800
Fax: (646) 878-0801